Fw

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/201,484	11/30/1998	J WILTSE CARPENTER	3382-51386	1596

26119   7590   05/19/2005

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

EXAMINER
KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _05 November 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
     closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-4,17,18 and 25-32_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-4,17,18 and 25-32_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
          application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _11/22/04_.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 1-4, 17-18, 28-32 have been

considered but are moot in view of the new ground(s) of rejection.

2.   Applicant's arguments filed 03 March 2005 have been fully considered but they

are not fully persuasive.

3.   With respect to claim 25, the applicant argues that Hoarty fails to teach or

suggest a "proxy server ... translating the received control data into control data

representing a video action in the second control protocol." The examiner disagrees;

Hoarty teaches interactive services such as video-on-demand (col. 4, II. 29-36) which

uses the system manager and communication gateway (fig. 8, labels 22, 26), wherein

the gateway translates all data to and from IHOP and Internet protocols (col. 14, II. 49-

55). Consequently, interactive service requests and communication to the user

(including video-on-demand controls) are translated between the different protocols,

wherein the application is video-on-demand. Given this interpretation, control data is

given the broadest reasonable interpretation consistent with every element in the

claims.

The applicant further argues,

> Hoarty fails to teach or suggest: (i) the control data is controlling an
>
> application and not data packets moving through a network; (ii) the control
>
> data is controlling video-on-demand and not packets moving through a
>
> network; (iii) the control data is translated from one application control

protocol to another application control protocol instead of from one

network packet header to another packet header; and (iv) receiving control

data from a client representing a video server control action in the first

protocol and translating the received control data into control data

representing a video control action in the second control protocol, and

sending the translated control data to the head-end.

The examiner disagrees; with respect to (i) and (ii), nowhere in the claim does

the claim preclude data packets moving through a network. With respect to (iii), by

converting all the data between IHOP and IP any application data (such as video-on-

demand) would consequently be converted, further instead of from one network packet

header to another packet header is not precluded in the claim. With respect to (iv),

Hoarty teaches control data representing interactive service (wherein interactive

services comprise video on demand – such as ordering a movie) (col. 7, ll. 20-48),

wherein the actions from the client and headend are translated between protocols.

The applicant argues that, Hoarty fails to teach or suggest a 'proxy server ...

translating the received control data into control data representing a video control action

in the second control protocol.'" The examiner disagrees; Hoarty teaches control data

representing interactive service (wherein interactive services comprise video on

demand – such as ordering a movie) (col. 7, ll. 20-48), wherein the actions from the

client and headend are translated between protocols. Consequently, the control data

representing a video control action is at least the requesting services (col. 4, ll. 60-64).

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claim 32 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 32 recites, "wherein the first and second application control data ... do not control the network protocol used to send the application control data between the headend and the first or second client." There is no support in the specification for this negative limitation. The specification merely teaches the use of a conventional protocol (TCP/IP) as disclosed on page 6, lines 13-15, but does not exclude that the use of the altering the control protocol, in this case TCP/IP. Despite not having support, the limitation reciting, "do not control the network protocol used to send the application control data between the headend and the first or second client" will be treated.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7.   Claims 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,883,661 to Hoarty.

Regarding claim 25, Hoarty teaches a television system implementing information services such as video on demand (col. 4, ll. 29-36) employing a system manager and communications gateway (fig. 8, labels 22, 26) that reads on the claimed proxy. Furthermore, Hoarty teaches assigning interactive channels to the users using the system manager (col. 10, ll. 33-41). Hoarty teaches a communications gateway (26) and system management (22), which equates to a proxy server computer, which is interposed between the servers (13) and the clients. Further, the system management receives requests from the clients and placing information on a carrier (first transmission channel) assigned to the user, and instructing the video server to transmit and instructing the client to receive the information (col. 7, ll. 20-48), wherein the interactive programming is a movie. Further, the system of Hoarty readily supports plural clients (abstract); see also plural modulators (27). The gateway of Hoarty implements an IP addressing scheme for the server side and IHOP addresses for the client side (col. 14, ll. 49-55), clearly Hoarty demonstrates a system where the server and client protocols are different. The subscriber of Hoarty clearly transmits requests (control data) for video data (col. 5, ll. 11-15), as discussed in the IHOP addresses and IP schemes for translating. In response, the system management device receives requests from the clients and placing information on a carrier (first transmission channel) assigned to the

user, and instructing the video server to transmit and instructing the client to receive the

information (col. 7, II. 20-48).

Regarding claims 26, 27, Hoarty recognizes the need to support multiple clients

(col. 5, II. 11-15), see also plural modulators (27). .

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 5,883,661 to Hoarty (Hoarty) in view of U.S. Patent 5,898,387 to Davis et al.

(Davis), U.S. Patent 5,414,455 to Hooper et al. (Hooper), and U.S. Patent 5,799,017 to

Gupta et al. (Gupta).

Regarding claims 1, Hoarty teaches television system implementing information

services such as video on demand (col. 4, II. 29-36) employing a communications

gateway (fig. 8, label 26) that reads on the claimed proxy. The gateway implements an

IP addressing scheme for the server side and IHOP addresses for the client side (col.

14, II. 49-55), clearly Hoarty demonstrates a system where the server and client

protocols are different, and incompatible in that the message from address information

of the first message cannot without being converted. However, Hoarty is silent on

changing the proxy when the server or client changes protocols. Davis teaches a

gateway enclosure that permits changing interface cards in the gateway (claimed proxy) when either the server or client changes protocols (col. 1-2, ll. 65-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoarty by changing the gateway when there is a change in the server or client protocol as taught by Davis in order to enable communication between the server and the client without changing the every server and client.

Hoarty teaches services such as video-on-demand, but is silent on control data for controlling a VOD server. As discussed above, Hoarty teaches separate IP addressing schemes. Hooper teaches control data for VOD, as VCR like commands such as reverse, forward, and pause (col. 3, ll. 41-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoarty by using control data to control a VOD server as taught by Hooper in order to provide additional functionality and services to the user.

Hoarty teaches converting between IP and IHOP protocols but is silent on data packet transmitted according to the same TCP-IP network protocol. Gupta teaches an Internetwork Protocol Engine (IPE) which uses TCP/IP (col. 2, ll. 7-10), which converts packets for Video-on-demand (col. 10, ll. 14-17, col. 30, ll. 14-19, col. 31-32, ll. 59-3) and translates messages of different protocols for the benefit of seamless integration of different services and different protocols throughout a system (col. 7, ll. 34-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoarty by converting packets transmitted according to the same TCP/IP protocol as taught by Gupta in order to benefit of

seamless integration of different services and different protocols throughout a system (col. 7, ll. 34-46).

Regarding claim 2, Hoarty teaches a gateway, which reads on the claimed proxy, but is silent on using the same proxy used in different server/client environments. Davis teaches a gateway that is used in a variety of different environments simultaneously (i.e. broadband, LLEO, VHF/Telephony, radio, CEBus, PLC, etc.) (col. 2, ll. 38-45; col. 2, ll. 7-9).

Regarding claim 3, the combined system of Hoarty and Davis clearly improves the system by translating the different protocols to enable both systems to communicate.

Regarding claim 4, Hoarty teaches conversion of IHOP addresses to IP addresses, which do not correspond exactly since there exists a translation to convert the protocols due to dynamically changing channels (col. 13, ll. 6-19).

10.   Claims 17 and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,883,661 to Hoarty (Hoarty) in view of U.S. Patent 5,799,017 to Gupta et al. (Gupta).

Regarding claims 17, 31, and 32, Hoarty teaches a television system implementing information services such as video on demand (col. 4, ll. 29-36) employing a system manager and communications gateway (fig. 8, labels 22, 26) that reads on the claimed proxy. Furthermore, Hoarty teaches assigning interactive channels to the users using the system manager (col. 10, ll. 33-41). Hoarty teaches a

communications gateway (26) and system management (22), which equates to a proxy server computer, which is interposed between the servers (13) and the clients. Further, the system management receives requests from the clients and placing information on a carrier (first transmission channel) assigned to the user, and instructing the video server to transmit and instructing the client to receive the information (col. 7, II. 20-48), wherein the interactive programming is a movie. Further, the system of Hoarty readily supports plural clients (abstract); see also plural modulators (27). Hoarty teaches changing the addressing scheme between an IP and IHOP; Hoarty teaches translating the received control data (where the control data includes address information along with control commands) (col. 14, II. 49-55). Clearly, the headend is designed to communicate with clients communicating control data according to the first on-demand video application.

Hoarty teaches converting between IP and IHOP protocols but is silent on data packet transmitted according to the same protocol. Gupta teaches an Internetwork Protocol Engine (IPE) which uses TCP/IP (col. 2, II. 7-10), which converts packets for Video-on-demand (col. 10, II. 14-17, col. 30, II. 14-19, col. 31-32, II. 59-3) and translates messages of different protocols for the benefit of seamless integration of different services and different protocols throughout a system (col. 7, II. 34-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoarty by converting packets transmitted according to the same protocol as taught by Gupta in order to benefit of seamless integration of different services and different protocols throughout a system (col. 7, II. 34-46).

Further regarding claim 32, the system of Gupta uses the same TCP/IP protocol in the IPE as discussed above, which would replace the IP and IHOP conversion of Hoarty thereby reading on the claimed "wherein the first and second application control data ... do not control the network protocol used to send the application control data between the headend and the first or second client."

Regarding claim 28, Hoarty teaches a television system implementing information services such as video on demand (col. 4, II. 29-36) employing a system manager and communications gateway (fig. 8, labels 22, 26) that reads on the claimed proxy. Furthermore, Hoarty teaches assigning interactive channels to the users using the system manager (col. 10, II. 33-41). Hoarty teaches a communications gateway (26) and system management (22), which equates to a proxy server computer, which is interposed between the servers (13) and the clients. Further, the system management receives requests from the clients and placing information on a carrier (first transmission channel) assigned to the user, and instructing the video server to transmit and instructing the client to receive the information (col. 7, II. 20-48), wherein the interactive programming is a movie. Further, the system of Hoarty readily supports plural clients (abstract); see also plural modulators (27). The gateway of Hoarty implements an IP addressing scheme for the server side and IHOP addresses for the client side (col. 14, II. 49-55), clearly Hoarty demonstrates a system where the server and client protocols are different. The subscriber of Hoarty clearly transmits requests (control data) for video data (col. 5, II. 11-15), as discussed in the IHOP addresses and IP schemes for translating. In response, the system management device receives requests from the

clients and placing information on a carrier (first transmission channel) assigned to the

user, and instructing the video server to transmit and instructing the client to receive the

information (col. 7, ll. 20-48).

Hoarty teaches converting between IP and IHOP protocols but is silent on data

packet transmitted according to the same TCP-IP network protocol. Gupta teaches an

Internetwork Protocol Engine (IPE) which uses TCP/IP (col. 2, ll. 7-10), which converts

packets for Video-on-demand (col. 10, ll. 14-17, col. 30, ll. 14-19, col. 31-32, ll. 59-3)

and translates messages of different protocols for the benefit of seamless integration of

different services and different protocols throughout a system (col. 7, ll. 34-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Hoarty by converting packets transmitted

according to the same TCP/IP protocol as taught by Gupta in order to benefit of

seamless integration of different services and different protocols throughout a system

(col. 7, ll. 34-46).

Regarding claims 29, and 30, Hoarty recognizes the need to support multiple

clients (col. 5, ll. 11-15), see also plural modulators (27).

11.   Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 5,883,661 to Hoarty (Hoarty) and U.S. Patent 5,799,017 to Gupta et al. (Gupta)

in view of U.S. Patent 5,729,280 to Inoue et al. (Inoue).

Regarding claim 18, Hoarty teaches assigning channels to the user (col. 13, ll. 1-

19), bus is silent on reassigning a user to a different channel in the middle of an on-

demand video. Inoue teaches changing to a different channel during an on-demand

video (Abstract). Therefore, it would have been obvious to one of ordinary skill in the art

at the time the invention was made to modify Hoarty by changing to a different channel

during an on-demand video as taught by Inoue in order to conserve resources and

provide a set of services to more users.

Conclusion

12.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andrew Y. Koenig whose telephone number is (703)

306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Christopher Grant can be reached on (703) 305-4755. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ayk

CHRIS GRANT
PRIMARY EXAMINER